Kessler v. Student Election Commission
Cite As: 1995 ASM SJ 2*

Complaint filed against the Student election Commission by Liza Kessler
Complaint filed 10/25/95
Case Heard 11/20/95

This complaint deals with the ASM 1995 Fall elections in which Liza Kessler cast two write-in votes for one candidate. The Student Election Commission (SEC) decided to count only one of those votes. Ms. Kessler filed a complaint with the Student Judiciary stating that her voting rights had been violated. She claimed that had she voted for two different people both of her votes would have been counted and that there were no instructions asserting that she could not cast multiple votes for one candidate. Ms. Kessler requested that the Student Judiciary direct the SEC to count both votes which would then place the candidate she voted for (Katherine Barber) in second place for a two seat election.

In hearing this case and reviewing the ASM constitution and bylaws, we find the following sections to be the most pertinent in this case:

Bylaws Part Five, Art. 5, Sec 1 "Currently enrolled students at the University of Wisconsin-Madison are eligible to vote once for representatives running for seats within that voters school."

Bylaws Part Five, Art. 6, Sec. 2 "Reports shall be prepared by DoIT and/or the SEC to substantiate numbers of votes cast and to ensure that no multiple votes have been cast."

Bylaws Part Five, Art. 6, Sec. 3 "Write-in votes will be tabulated separately and are indeed valid votes cast by students."

Both sides in this case felt that the interpretation of Part Five, Art. 5, Sec. 1 had the most bearing on the case, and the Hearing Justices agree. The two interpretations presented in this case were that a voter either had one voting session allowed to them or that they could only cast a single vote for any single candidate. We hereby find that the latter interpretation is the most valid, and that each student in the ASM 1995 Fall elections was allowed to cast only one vote for any particular candidate. We feel that this interpretation is substantiated by Bylaw Part Five, Art. 6, Sec. 2 "...to ensure that no multiple votes have been cast." In light of this we find that the SEC was correct in counting only one of Ms. Kessler's votes, and that Katherine Barber was credited with the proper amount of votes. In respect to Ms. Kessler's concern over her voting confidentiality, we do not find that anyone could have found out how she voted on the majority of her ballot, but find some merit in her concern. It seems possible that the SEC or others could have figured out any other write-in votes Ms. Kessler made after she divulged she was the person who voted twice for Katherine Barber, but this is not clear. Because this point has not been proven twice for Katherine Barber, but this is not clear. Because this point has not been proven

* Editor’s Note – This case predates the official citation system. Pursuant to the Order for the Revision of Citation Formats, 2004 SJ Ord. 3, this case has been designated 1995 ASM SJ 2.
we find no grounds to take action on this claim.

In researching this decision we also find that the SEC was in violation of Bylaw Part Four, Art. 4, Sec. 2 (e), "The Election Commissioners must make all relevant rules, policies, procedures, and decisions easily available to the ASM, other RSO's, and the general student population." Commissioner Mark Howard asserted that this situation of multiple votes had occurred in the past and that the decision was made to count only one of the votes. Had this been made clear to the voters it is doubtful that this situation would have occurred. While we understand that this particular rule will no longer be pertinent to elections due to the referendum on weighted voting, we direct future SEC's to make available to all voters at the time of voting rules of voting as well as where they can go to get complete election and voting rules and procedures.

This decision results in a fifteen way tie for the second Professional School Seat which the Student Judiciary shall break randomly at its next meeting as per the ASM constitution Article XI Section 2.

For the Student Judiciary Committee,

Bob Hamilton        Dan Teitelbaum